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M E M O R A N D U M

TO: All Category "A" Institutions


FROM: Marg Preston
Secretary
Canadian Cultural Property Export
Review Board

SUBJECT: Evaluations

The issue of fair market value of objects certified for tax purposes by the Canadian Cultural Property Export Review Board has recently been a cause of increased concern among the members. Although the Board is not directly responsible for determining the accuracy of appraisals provided in support of applications for certification, it does assist Revenue Canada in this regard. In 1982 the Board published its policy on appraisals and distributed it to all Category "A" institutions and interested individuals. The Board has always attempted to be flexible in enforcing this policy when the situation seemed to warrant such an approach.

Recently, however, members have noted an increased number of questionable appraisals which do not meet the Board's requirements. They have asked, therefore, that we recirculate the policy. We would appreciate it if designated institutions could make copies available to all staff members who deal with donors and, when appropriate, to donors and the dealers who provide the evaluations of their gifts.

You should be aware that failure to submit evaluations in keeping with the policy could result in delays and embarrassment to your donors. Additional copies of the "Policy on Appraisals" are available on request from the Review Board Secretariat.



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POLICY WITH REGARD TO APPRAISALS

Background

Pursuant to paragraph 26 of the Cultural Property Export and Import Act, when an individual proposes to donate or sell a cultural object to an institution which is designated under the Act, the Cultural Property Export Review Board may be asked to determine whether or not the object in question meets the criteria of outstanding significance and national importance which are set out in paragraphs 23(3)(b) and (c) of the Act. This determination is made for the purpose of subparagraph 39(1)(a)(i.1) or paragraph 110(1)(b.1) of the Income Tax Act, which establish the additional tax incentives for which such donors or vendors are eligible as a result of the proclamation of the Cultural Property Export and Import Act.

As stated in the Act, the Board's responsibility is to determine the significance of the object in question. Revenue Canada (Taxation) is the authority responsible for determining the eligibility and amount of the exemption. Because of the Board's expertise, however, the two agencies have agreed that the Board, when it issues a cultural property tax certificate, will also comment on the estimated fair market value of the object in question. For this reason, the Board requires that all applications for certification of cultural objects being donated to designated institutions be accompanied by appraisals.

Fair Market Value

Appraisals may, of course, be requested for a number of reasons all of which are related to a need to assign a monetary value to an object. Since numerous circumstances can affect the amount realized through the sale of an object, an appraisal can rarely be more than an informed opinion on the subject. The opinion of the appraiser may differ somewhat depending on whether the appraisal is being requested for insurance, probate, income tax, or other purposes.

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Legally, the value of an object for any of these purposes is the "fair market value". This in turn is defined as: the price at which material changes hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts. It is, therefore, the "fair market value" of the object which is of interest to the Review Board when an application for certification is being considered.

Recent Purchases

In some circumstances, an individual may wish to donate a recently purchased object to a designated institution. In such a situation, the most appropriate indication of the fair market value of the object is the bill of sale indicating the purchase price.

Applications for Certification

The Board has established certain requirements for appraisals accompanying applications for certification. It should be noted that these are, in some cases, more stringent than those established by Revenue Canada for donations which are treated as "gifts to charity" or "gifts to the Crown" without reference to the Cultural Property Export and Import Act.

The following are the Board's requirements for appraisals submitted with applications for certification.

- no appraisals are required for an object or collection which is being sold to a designated institution;
- in-house appraisals are not acceptable for gifts of any value;
- all appraisals must be "at arms length". That is, the appraiser should not be associated with either the donor or the recipient institution;
- appraisals must be by dealers who routinely buy and sell the type of cultural property being appraised (see the section on "appraisers");
- one appraisal is required when the estimated fair market value of the donation is less than \$5,000. Above \$5,000, two appraisals are required, whether the donation consists of a single object or a group of objects;
- only one appraisal, regardless of the value, is required if that appraisal is provided by a committee of the Professional Art Dealers Association of Canada, the National

Archival Appraisal Board, the Canadian Antique Dealers Association or the Antiquarian Booksellers Association of Canada as these appraisals represent the opinion of more than one expert;

- appraisals must establish the estimated fair market value of the object or collection. Evaluations "for insurance purposes" or "for probate purposes" are not acceptable;
- when two appraisals are provided the appraised values should not differ by more than 15%.

Format of Appraisals

Appraisals can take a variety of formats, but those submitted with applications for certification should contain the following information.

- a detailed description of the object or collection typed on letter-head which clearly indicates the name, address and type of business carrying out the appraisal;
- the name and qualifications of the appraiser. If the appraiser is not associated with a business his address should also appear;
- the name and address of the present owner;
- the appraisal must indicate the estimated fair market value assigned to the object and the currency (preferably Canadian dollars);
- the appraisal should indicate that the assigned value is the fair market value of the object or collection;
- if a single appraisal covers a large number of objects individual values should appear for each object, each page should be sub-totalled and each sub-total initialled by the appraiser. A final total should appear on a page signed by the appraiser;
- the appraisal must be signed in the original, not "per" another party;

Appraisers

a) Introduction

Whenever possible, appraisals must be carried out by individuals or corporations actively dealing in the type of property concerned. They should also be well established and known for their expertise in the appropriate area. If the Board is unfamiliar with an appraiser or unaware of his expertise in a given area, more information about the appraiser or an additional evaluation may be requested. The Board, however, does not publish a list of acceptable appraisers and does not guarantee the automatic acceptance of any appraisal. Institutions must use their best judgement in locating competent and reliable evaluators for donations and be prepared to explain their choice.

The question of whether the cost of the appraisal should be borne by the donor or the recipient is not of direct concern to the Board. It must be resolved by the two parties involved. In forwarding appraisals to the Board, however, an institution is, in effect, asking that they be endorsed by the Board. The institution must, therefore, be satisfied that, to the best of its knowledge, the appraisers are competent and reputable and their evaluations provide a reasonable indication of the fair market value of the object in question.

b) Archives

The National Archival Appraisal Board has been established by Canada's archival community, in consultation with Revenue Canada, to evaluate archival collections being donated to Canadian institutions. Committees consisting of a dealer, an archivist/historian and another expert are established to determine the estimated fair market value of such collections and provide formal appraisals which are normally acceptable both to the Board and to Revenue Canada. The Board endorses this method of determining the value of archival material so long as the committee is structured as described above.

Independent appraisals from two dealers or from a dealer and an archivist acting independently are also acceptable, provided that the appraisers are "at arms length". For collections valued at less than \$5,000, the single appraisal must be provided by a dealer.

c) Works of Art

The Professional Art Dealers Association of Canada also provides appraisals which are done by more than one dealer acting independently. The Association then endorses a single estimate of the fair market value based on these opinions and issues its own

evaluation. This, as mentioned above, is acceptable to the Board in lieu of two independent appraisals. It is also acceptable to provide independent appraisals from two dealers, whether they are members of the Professional Art Dealers Association of Canada or not, if they have the appropriate expertise.

Procedure by the Appraiser

a) Description

Since numerous factors, particularly those related to the condition of the object, can affect its value, an appraiser should begin by carefully examining the object in question. It should then be described fully, including media, dimensions, condition, date, country of origin, and any other relevant factors.

Where appropriate, the maker of the object should be named along with his citizenship and dates. For works of art, the title should be cited and it should be noted whether this is an official title determined by the artist or one arrived at for descriptive purposes. Any signature or inscription should be mentioned and the frame or support should be described.

While it is not normally acceptable for an appraiser to evaluate an object on the basis of examination of a photograph only, if this method is used, it should be clearly stated on the appraisal. The evaluator should also explain why he believes he is able to arrive at a fair estimate of the value of the object without actually having examined it.

The appraiser will then, in most cases, wish to learn something about the history of the object. Its value may be affected by factors such as previous association with a well-known collection. If this is the case, the appraisal should mention the fact. The authenticity of the object should also be determined in this process. Any question in this area, will, of course, also have an effect on the object's value. Mention of any relevant factors relating to the history or provenance of the object should also be included in the appraisal.

b) Determining the Fair Market Value

The appraiser will wish to check records of recent sales of the type of object in question. Whenever an estimate of the fair market value of an object is given, the appraiser must be able to substantiate it by reference to such sales. Auction sales are the most logical point of reference since prices realized are a matter of public record. Other sales may also be cited if they can be documented and verified. This type of information need not be included in an appraisal, although it would be useful. The appraiser must, however, be able to provide it on request.

For more information see:

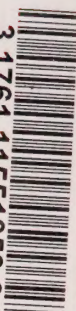
"Appraisals" by Sonja C. Tanner-Kaplash, Canadian Collector,
November - December 1981.

"Museums and Appraisals: A Potential Problem Area", by
Sonja Tanner-Kaplash, Muse, Winter, 1985.

"Introduction to the Cultural Property Export and Import Act",
available from Movable Cultural Property.

"Gifts in Kind" available from your District Taxation Office.

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